DETAILED ACTION

1. Claims 1-26 are pending in the application.

Allowable Subject Matter

2. Claims 4, 6, 13, 21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcoming the objection for minor informalities below.

Drawings

3. Figure 2 is objected to because "selection component" (module 60) is misspelled as "selection componet". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "an external source".

Claim Objections

5. Claims 1, 4, 8, 13-14, 21 and 25-26 are objected to because of the following informalities:

a. As the claims 1, 14 and 26, "the request" should read --the processing request--.

b. As to claims 4, 8, 13, 21 and 25, "the request" should read --the processing server request--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 11-13 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The following terms lack antecedent basis:

i. the method – claim 26.

b. The following claim language is indefinite:

i. As per claim 11, it is uncertain whether "an external source" refers to "a load balancing master server" (i.e. if they are the same then said/the should be used, and "the load balancing master sever" should be used throughout the claims). Claim 13 is rejected for the same reason. For examination purpose they will be treated as the same in light of independent claim 1 and Figs. 10-11 of the specification.

ii. As per claim 26, it is uncertain whether "the method" refers to "a load balancer." For examination purpose, "the method comprising the steps of" would be treated as "the load balancer comprising".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-3, 5, 7-12, 14-20, 22 and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Wydra et al (hereafter Wydra) (U.S. Patent 6,598,067).

10. As to claim 1, Wydra teaches the invention as claimed including a method in a data processing system having a load balancing slave server, a load balancing master server, a plurality of processing servers, and a client, the method comprising the steps of:

selecting by the load balancing master server the load balancing slave server to receive a processing request from the client to perform a processing [col. 9, lines 2-4, and 26-31] (note: the term "selecting" is interpreted as "designating" since there is only a single load balancing slave server, the fact that this load balancing slave server/listener is designated as the receiver of client requests before they are forwarded to a load balancing master server satisfied the limitation, in addition, when an application server is selected as the primary application server, its load balancer will be inform accordingly, thereafter, inherently the load balancer notifies the associated listener who listens on behalf of the load balancer);

receiving at the load balancing slave server a processing request from the client to perform the processing, after the load balancing master server selects the load balancing slave server [col. 9, lines 2-4, and 26-31; col. 11, lines 65-66; col. 12, lines 6-29];

sending by the load balancing slave server a processing server request to the load balancing master server in response to the receipt of the (processing) request [referring to the conventional balancer to determine a preferred application server from determined candidate application servers, col. 12, lines 22-27];

determining a load of each of the plurality of processing servers by the load balancing master server and selecting by the load balancing master server a selected one of the plurality of processing servers that is suitable for performing the processing responsive to the processing server request, wherein the selected one of the plurality of processing servers is selected based on the load of each of the plurality of processing server [conventional load balancer determine a preferred application server from an overall system load perspective (of application servers), col. 12, lines 22-27; col. 9, lines 2-4; col. 11, lines 65-66];

sending an identifier of the selected one of a plurality of processing servers from the load balancing master server to the load balancing slave server [col. 12, lines 27-29] (note: communication of identified preferred application from the load balancer to the listener occurred because the listener acted based on the load balancer, the listener advise the connection to the preferred application server); and

establishing by the load balancing slave server a communication link between the selected one of the plurality of processing servers and the client to perform the processing [the listener advises a connection controller to established communication for processing the request, col. 12, lines 6-29; Fig. 7; 22-1, 24-1, 32, 34, 148, Fig. 9].

11. As to claims 2-3, these claims are rejected for the same reason as claim 1 above.

12. As to claim 5, Wydra teaches the invention as claimed including a method in a data processing system having a first and a second load balancing server and having a plurality of processing servers, the method comprising the steps of:

selecting by the second load balancing server the first load balancing server to receive a processing request from a client to perform a processing [col. 9, lines 2-4, and 26-31] (note: the term "selecting" is interpreted as "designating" since there is only a single first load balancing server, the fact that this first load balancing server/listener is designated as the receiver of client requests before they are forwarded to a second load balancing server satisfied the limitation, in addition, when application server is selected as the primary application server, its load balancer will be inform accordingly, thereafter, inherently the load balancer notify the associated listener who listens on behalf of the load balancer);

receiving by the first load balancing server a processing request to perform the processing, after the second load balancing server selects the first load balancing server [col. 9, lines 2-4, and 26-31; col. 11, lines 65-66; col. 12, lines 6-29];

sending a processing server request from the first load balancing server to the second load balancing server [referring to the conventional balancer to determine a preferred application server from determined candidate application servers, col. 12, lines 22-27];

determining a load of each of the plurality of processing servers by the second load balancing server and selecting by the second load balancing server a selected one of the plurality of processing servers that is suitable for performing the processing responsive to the processing server request, wherein the selection is performed based on the load of each of the plurality of processing servers [conventional load balancer determine a preferred application server from an overall system load perspective (of application servers), col. 12, lines 22-27; col. 9, lines 2-4; col. 11, lines 65-66];

sending an identifier of the selected one of a plurality of processing servers from the second load balancing server to the first load balancing server [col. 12, lines 27-29] (note: communication of identified preferred application from the load balancer to the listener occurred because the listener acted based on the load balancer, the listener advise the connection to the preferred application server);

sending by the second load balancing server to the selected one of the plurality of processing servers an indication to perform the processing [given the broadest reasonable interpretation of "to the selected one of the plurality of processing servers" as a direct or indirect communication from the second load balancing server, the load balancer of Wydra which communicates indirectly with the preferred application server via the listener which in turn advises a connection controller to established communication for processing the request satisfy the limitation, col. 12, lines 6-29; Fig. 7; 22-1, 24-1, 32, 34, 148, Fig. 9].

13. As to claims 7-10, these claims are rejected for the same reason as claim 5 above.

14. As to claims 14-17, these are data processing system claims that correspond to the method claims 5, 7 and 9-10. Therefore, they are rejected for the same reason as claims 5, 7 and 9-10 above.

15. As to claims 22 and 24-25, these are computer readable medium claims that correspond to the method claims 5 and 7-8. Therefore, they are rejected for the same reason as claims 5 and 7-8 above.

16. As to claims 11-12, these are data processing system claims that correspond to the method claims 1 and 3. Therefore, they are rejected for the same reason as claims 1 and 3 above.

17. As to claims 18-20, these are computer readable medium claims that correspond to the method claims 1-3. Therefore, they are rejected for the same reason as claims 1-3 above.

18. As to claim 26, this is a load balancer claim that corresponds to the method claim 1. Therefore, it is rejected for the same reason as claim 1 above.

Response to Arguments

19. Applicant's arguments filed 1/7/08 have been fully considered but are moot in view of the new ground of rejection.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571)272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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